App F IX 4

Previous References

Ml 155-42-10,11
CB 25-47-39-40

Later References

(1942 Ml)

File No 155-42
Serial Nos 20, 21

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two

Part B for July 43

SUBJECT

Absence of ml Councillors under detention from the mld meetings Mysore city

To The Dpty ml C, Mysore
L 8619 D 26-2-43
Sl 21
States that it does not fall under the Category

HSK
23/8

1633/42 p 42

3986

Continuation Sheet Mk File No / Current No 155 of 42-43 Page

From The Dolt, asst mk el, Mysore
No M5 108-490/42 Dy 2-1-43
Forwards a copy of the resolution of the mk el dated the 22 nd Dec 1942 to the effect that Govt be requested to reconsider their orders regarding the grant of leave to the mk Councillors who are under detention in Jail etc.

1) The mk el have resolved to request Govt to reconsider their orders of Govt sanctioning the period of leave to certain mk Councillors who are under detention in jail to six months under section 12(2)(a) of the Mysore exp mk Act 1933

2). The Dolt has also enclosed a "Q" statement showing the names of the Councillors who have been granted leave & whose terms the date on which the six months leave expires

3) The Dolt requests early orders of Govt submd for orders with the connected file

K[illegible] 5/1/43

Law Secy 5/1/43

4) The Law Section will consider the question.

Asst Secy Law 5-11-43
Sec 5/1/43

WD 1140—GPB—50 000—5-11-42

JBV 6/1

SEC LAW DEPT 2014 GOVT OF MYSORE

5) The first resolution requests Govt to reconsider their order on the resolution of the Council passed on 31st October 1942, permitting the absence of members every month until they were released. The most benignant construction possible has been given to the original resolution, and it is not possible to comply ~~the~~ with the request of the Council, since such compliance would militate against the provisions of section 12 (2) (d) of the City Municipalities Act which expressly limit the maximum period of leave of absence that could be granted by the Council to six months.

6) The second resolution requests that in case Govt do not reconsider the question, such of the Councillors under detention as are willing to attend the meetings and who apply may be permitted to do so. This is a question of policy and not of law. Such of the Municipal Councillors as are under detention have been detained in the interest of public safety and security and it may not be possible to allow them to attend meetings without detriment to such interests.

7) The third resolution grants leave of absence to Mr. T Mariappa for three months from 2nd December. It is seen from the statement sent by the Presidency Asst. Mr. Mariappa has been absent from the meetings since 15th August 1942, and the ~~grant~~ leave granted by the Council extends till the 22nd of March 1943. The maximum period for which leave could be granted by the Council is six months but in this case the resolution takes the leave beyond

Serial No

the period of six months, viz, from 15th August 1942 to 15th Feb 1943, and it does not therefore appear to be in order - - ——— ——— ———

- - — 8) Apart from these resolutions however, leave of absence does not seem to be necessary in the case of members of the Municipal Council who have been detained under the Defence of India Rules, to keep alive their membership of the Municipal Council. Their absence from the meetings of the Council does not disqualify them under section 12 (2) (d) of the Cities Municipalities Act. That section disqualifies from membership any councillor who "absents himself" from meetings of the Council for four successive meetings without the leave of the Council. The section specifically contemplates voluntary absence and not compulsory or enforced absence as in the case of detention under the Defence of India Rules. As decided in one case, Re London & Northern Bank (1901-1ch 728 (Vide English and Empire Digest Vol X IX, page 462) there is a difference between the act of "absenting oneself which is purely voluntary and the fact of being "absent" which may be voluntary or involuntary as the case may be. The deliberate use of the words "absents himself clearly indicates that what the section contemplates is voluntary absence and not

NOTE—Cont Sheet

3981/L

Absence of Municipal Councillors at Council Meetings to be treated as leave for a period not exceeding six months

File No | of 194 | General and Revenue Secretariat

Serial No

involuntary absences arising from causes which make it physically impossible for a member to attend the meetings of Council however much he might like to do so Leaves of absence therefore unnecessary in such cases and the fact of absence does not disqualify the members from continuing as Councillors

JWW 4/1

Law Secy)

9) I agree. The expression absence means voluntary absence. Where absence due to defaults does not disqualify a person from continuing as a Councillor

Cm 6-1-63

MINISTER S S

10) Sd 27/1/63

Cm 27-1-63

Fy 11/63

SECY LAW DEPT GOVT OF MYSORE

OFFICE OF THE MINISTER FOR L S G & P H Date 9/1/63 No 5298

Absence of municipal councillors from meetings — 3 & 4 Geo. VI, c. 21, s. 4

3986

Continuation Sheet. ML File No / Current No 155 of 42 Page

11) Draft reply to be sent to the Oath of Office, Allahabad, to the effect that absence due to detention whether the period may be does not disqualify a person from continuing to be a Councillor

12) The President to be requested to issue such orders as he may consider necessary in the matter

Secy. Dept. 1/2/43

13) Secy. 1/2/43

742/42

Footnote for approval

17) As it enunciates a principle which appears to be in apparent conflict with Sec 12 (2) (d) of the City Mlts Act 1933 and which will have to be based on the interpretation of the word of a section which perhaps applied to the case of Municipal Councillors (& Town Mlts) also the file may be sent for the Diwan for perusal

Secy. 4/2/43

18) Reply to be sent to the Collector, Allahabad, by Mail

Continuation Sheet | File No 3986 / Current No 2 of

Bangalore. The Resident has
forwarded the A S to advance
(2) There is no confirmation
regarding the Bangalore

[illegible]
5 2 43

1) From the President Mysore city wld
no M.I.T 108 - dy 3/6 2-43
Request early orders re period of absence
of Lts ... in the case of the enemies
under detention
2) A revised draft-reply putting
together with the file ordered to be put up
by the Secy Law Dept

Law Dept 19/2/43

3) For perusal

Minister 5/3

[illegible]
19-2-43
[illegible]
[illegible]
[illegible]
[illegible]
23-2-43

1) Letter
2) Re submits for
[illegible] 22/2/43

To the Pdt, City and Cl, Mysore
No L 8619 dy 26-2-43
States that the absence of the members in
question does not fall under the category

OFFICE OF THE MINISTER
FD L S C & P H
Date 22-2-43
No 6746

TYPE G SECT
22 FEB 1943
GEN & REV SECTT

3986 V 4 7us

Continuation Sheet | File No / Current No 1535 4-2-43 | Page

of "absence" contemplated in Section 12(2)(d) of the Municipalities (War Measures) Act, 1939.

There are such provisions in respect of the members of the Municipal Council, and I have also been asked to advise the State Department as to the substance of the instructions issued to the Municipality which should be communicated to the other Allies.

It is therefore for consideration whether it should not be announced that, in such cases of detention of members, the detention is not to be treated as absence disqualifying them from continuing as members of the local body, as contemplated under the Law, and no by-election held as if a vacancy had occurred.

Law Dept. 27/4/43

10360/13

With acknowledgment and assurance only of the information as made.

Mr. Read 2 Sec. 1-3-43

May be done as a Same Cost of correspondence for Mr. Read Chapter

Mr. Read 2-3-43 Mr. Read 3-3-43 Mr. Read 2 3 4 3

OFFICE OF THE MINISTER FOR L S G & P H Date 13-43 No 7080

Continuation Sheet | File No / Current No 1740 | Page

Mr. Kripalani
Pl keep up
instructions
from 24/3/43

observe once that Govt have
not fixed allowances for
in which we stand to have
Evacuation
Issue of Rules &
instructions may be
be necessary at this juncture

Can
2-3-43

Mr. Patel Esq

Law says can please
keep up

OFFICE OF THE MINISTER
FOR L S G & P H
Date 3 3 43
No. 7123

Submitted

I am a new man posted as
dearot in the L S G Br very recent
The marginal note escaped note
& I did not see the prev cons pap
also, I therefore marked the
file to the minister & sent
it to his office I regret the
mistake & I may kindly be
excused

B
17743

His attention
the Director is
kind enough
being passed
the Superintendent
The mistake may be

22/3/43

he has also brought to my notice that he
turns his file marked to the Minister
L S G & P H & hence he marked
He has been advised & cautioned
Law is doubtful
marked in Cases
kind

(The matter will be
put up separately)

Law says
Supdt. Dharwar
& Hubli

Rule
Enclosed

OFFICE OF THE PRESIDENT
CITY MUNICIPAL COUNCIL MYSORE.

Dated 1st January, 1943

LMS-108-490/42,
3

Ml 155-42- 2a 3986/L

B S RAGHAVENDRA RAO, Esq M A (Hons)
PRESIDENT CITY MUNICIPAL COUNCIL
MYSORE

L S G BRA

C. NARAYANASWAMY NAIDU, ESQ B A, B L
Secretary to the Government of His Highness
the Maharaja of Mysore, Law Department,
Bangalore

Ref.- Absence of Municipal Councillors at Council Meetings be treated as leave for a period not exceeding six months

---

I have the honor to state that your letter No L.4975/Ml 155-42-11 dated 18th November 1942 regarding the above, was placed before the

H C Devaraja Urs Esq

Municipal Council their Ordi General Meetir
November 1942, when the subject is deferred At ther
held on 22nd December 1942 they resolved as under

"Resolved that the Government be requested to reconsider its and approve the original resolution of the Municipal Counci ing as Section 12 (2) (d) applies only to such of those who nt selves deliberately and voluntarily and not to those detention and who inspite of their willingness to atten the statutory duties cannot do so "

"Further resolved that in case on reconsideration the Government is of opinion that that provision applies, such of those Councillors under detention as are willing to attend the meetings and who apply may be permitted by the Government to do so "

Further, at the same meeting the letter of Mr T Mariappa, Municipal Councillor who has been absent for meetings for past four months requesting sanction of leave for three months from now came up and I enclose herewith the extract of Resolution No 430 dated 22-12-42 approving of the request, for the information of Government

In this connection, I note below the relevant Section 12 (2) (d) under which the Municipal Council cannot grant leave in the case of

absence from the meetings of the Municipal Council during a period exceeding six months

"Section 12 (2) If any Councillor during the term for which he has been elected or appointed

xx xx xx

(d) not being a salaried servant of the Government, absents himself from the meetings of the Municipal Council during four successive months except with the leave of the Municipal Council, provided that no such leave shall be granted in case of absence from the meetings of the Municipal Council ~~Council~~ during a period exceeding six successive months,"

xx xx xx

he shall be disabled from continuing to be a Councillor, and his Office shall become vacant "

A statement of Municipal Councillors who have been absent and the dates on which the period of six months referred to in the Section referred to above expires is also enclosed

Under Section 12 (3), if any question or dispute arises whether a vacancy has occurred under this Section, the orders of the Government shall be final for the purpose of deciding such question or dispute

Early orders are therein solicited

I have the honour

Sir,

Your most obedient servant,

B Narasimha

PRESIDENT

2.1.14

SNR}.

MYSORE CITY MUNICIPALITY

Proceedings of the Ordinary General Meeting of the Mysore City Municipal Council held in the Municipal Office on Tuesday the 22nd December 1942, at 4-30 p m

PRESENT

B S Raghavendra Rao Esq M A (Hons) *President*

2 S Linganna Esq
3 U L Ramachandra Rao Esq
4 Chowdiah Esq
5 T S Rajagopala Iyengar Esq M A LL B
6 N Rajagopala Iyengar Esq B A B L
7 Mrs B Kameswaramma B A
8 M V Venkataramiah Esq
9 M S Nanjappa Esq
10 G R Rangaswamiah Esq
11 G Janardan Naidu Esq
12 Patnam Sreenivasasetty Esq
13 M R C Basappa Esq
14 T Venkataramaniah Esq
15 T S Alikhan Esq
16 Mahomed Khalilulla Esq M A LL B
17 S A Kareem Esq
18 B L Maridandiah Esq
19 F C Devaraja Urs Esq

ABSENT

20 P Sitaramiah, Esq B A B L *Vice President*
21 M K Linganna Esq B A LL B
22 M C Mallappa Esq
23 A Krishna Murty Esq
24 T Narasimha Iyengar Esq B A B L
25 A V Suryanarayana Rao Esq
26 B Narayanaswamy, Esq B A B L
27 T Mariappa Esq B A LL B
28 E P, Nanjappa Esq
29 Dr A J Ram L M & S
30 Haji Mir Amiruddin Khuraishi, Esq
31 Agaram Rangiah Esq

Deferred subject No 359 Letter No I 4975/M1 155-42-11- dated 18-11-1942, from the Secretary to Government, Law Department, intimating that the permission granted to certain members to absent themselves for meetings in Council Resolution No 249, dated 31-10-1942, be treated as leave for a period not exceeding six months under Sect City Municipalit Act

Resolution "Resolved that the Government be requested to reconsider its order and approve the original resolution of the Municipal Council inasmuch as Section 12 (2) (d) applies only to such of those who absent themselves deliberately and voluntarily and not to those who are under detention and who inspite of their willingness to attend to discharge the statutory duties cannot do so

Further resolved that in case on reconsideration the Government is of opinion that that provision applies, such of those Councillors under detention as are willing to attend the meetin

meetings and any may be permitted by the Chairman
sc

Moved by Mr T.S Rajagopala [illegible],
Seconded by Mr N Rajagopala [illegible]

"Carried

Sd/ B S Raghavendra Rao

President

"Copy"

PRESIDENT

SR 31-12

MYSORE CITY MUNICIPALITY

Proceedings of the Ordinary General Meeting of the Mysore City Municipal Council held in the Municipal Office on Tuesday the 22nd December 1942, at 4-30 p m

PRESENT

B S Raghavendra Rao Esq M A (Hons) *President*

2 S Linganna Esq
3 U L Ramachandra Rao Esq
4 Chowdiah Esq
5 T S Rajagopala Iyengar Esq M A LL B
6 N Rajagopala Iyengar Esq B A B L
7 Mrs B Kameswaramma B A
8 M V Venkataramiah Esq
9 M S Nanjappa Esq
10 G R Rangaswamiah Esq
11 G Janardan Naidu Esq
12 Patnam Sreenivasasetty Esq
13 M R C Basappa Esq
14 T Venkataramamiah Esq
15 T S Alikhan Esq
16 Mahomed Khalilulla Esq M A LL B
17 S A Kareem Esq
18 B L Maridandiah Esq
19 F C Devaraja Urs Esq

ABSENT

20 P Sitaramiah Esq B A B L *Vice President*
21 M K Linganna Esq B A LL B
22 M C Mallappa Esq
23 A Krishna Murty Esq
24 T Narasimha Iyengar Esq B A B L
25 A N Suryanarayana Rao Esq
26 B Narayanaswamy Esq B A B L
27 T Mariappa Esq B A LL B
28 E P Nanjappa Esq
29 Dr A J Ram L M & S
30 Haji Mir Amiruddin Khuraishi, Esq
31 Agaram Rangiah Esq

---

430 Letter dated 14-12-1942, received from Mr T Mariappa, Municipal Councillor, requesting leave of absence for three months from now.

"Approved "

Sd/ B S Raghavendra Ra

President

"Copy"

B Raghavendra Rao

PRESIDENT

SR 31-12

MYSORE CITY MUNICIPALITY

Attendance of Municipal Councillors 1942-43

Name of Municipal Councillors	Ord Gl Meetg 31-7-42 4 pm	Adj Ord Gl mtg 15-8-42 4 p m	Adj Ord Gl mtg 29-8-42 3 p m	Ord Gl M'tg, 29-8-42 4 pm	Ord Gl Mtg 26-9-42 4-30 p m	Adj Ord Gl mtg 7-10-42, 4-30 p m	Spl Gl M'tg, 7-10-42 4 pm	Adj Spl Gl, mtg 31-10-42 4-15 p m	Ord Gl Mtg, 31-10-42 at 4-30 p m	Adj Ord Gl 5-11-42 at 4-30 p m	Ord Gl M'tg, 28-11-42 at 4-30 p m	Spl Genl M'tg 22-12-1942 4 p m	Ord Genl Mtg 22-12-1942 4-30 p m	Date on which six months' leave expires
P Sitaramiah, Esq B A, B L	Present	Absent	Absent	Absent hr th permission	Absent	Absent	Absent	Absent	Absent hr th permission	Absent	Absent	Absent	Absent	31-1-1943
A Krishnamurthy Esq,	Present	Absent	Absent	Absent hr th permission	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	—do—
T Narasimha Iyengar, Esq, B A, B L,	Present	Absent	Absent	Absent hr th permission	Absent	Absent	Absent	Absent Leave granted	Absent	Absent	Absent	Absent	Absent	—do—
A N Suryanarayana Rao, Esq	Present	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent Leave granted	Absent	Absent	Absent	Absent	—do—
Agaram Pangiah, Esq	Present	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent hr th permission	Absent	Absent	Absent	Absent	—do—
B Narayanaswamy, Esq, B A, B L,	Present	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent hr th permission	Absent	Absent	Absent	Absent	—do—
T Mariappa, Esq, B A, LL B,	Present	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent hr th permission	Absent	Absent	Absent	Absent leave granted	—do—

P T O

(Statement continued)

I. Manjappa, Esq	Present	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	31/1/19

By resolution

PRESIDENT.

19.31-12.

4740/L

OFFICE OF THE PRESIDENT
CITY MUNICIPAL COUNCIL MYSORE

Dated 5th February 1943.

No M5-108-4
Encl 2

From

B S RAGHAVENDRA RAO Esq M A (Hons)
PRESIDENT CITY MUNICIPAL COUNCIL
MYSORE

To

C NARAYANASWAMY NAIDU, Esq., B A.,B.L
Secretary to the Government of His Highness
the Maharaja o Mysore, Law Department,
Bangalore

Sir

Re - Absence of Municipal Councillors at Council Meetings be treated as leave for a period not exceeding six months

In continuation of this office letter No M5-108-490/42 dated 31st December 1942 regarding the above, I have the honour to state as follows

The Municipal Councillors noted below applied again for leave for the Municipal Council Meetings though leave was granted to them previously as explained in the office note (copy) enclosed herewith

Mr T Mariappa
" A Krishna Murthi
" E P Nanjappa
" B.Narayanaswamy
" T.Narasimha Iyengar
" A N Suryanarayana Rao

The Leave letters were placed before the Municipal Council In their adjourned meeting held on 1st February 1943, the Municipal Council sanctioned the leave and further resolved that "Government may be reminded about resolution No 359 dated 22-12-1942 " Extracts of the resolutions are herewith enclosed for your reference.

I request you to kindly obtain early orders of Government as the period of absence of six months in the case of the Councillor under detention, expires ~~on 31st January 1943.~~ this month

expires ~~on 31st January, 1943.~~ this month

I have the honour to be,

Sir,

Your most obedient servant,

Basheendar Raj

PRESIDENT.

6/2

SNR)6/2/43

MYSORE CITY MUNICIPALITY

roceedings of the Adjourned Ordinary General Meeting of the Mysore City Municipal Council held in the Municipal Office on Monday the 1st February 1943, at 4-30 p m

PRESENT

B S Raghavendra Rao Esq M A (Hons) *President*

2 Mohamed Khalilulla Esq M A LL B *Vice President*
3 S Linganna Esq
4 Chowdiah Esq
5 T S Rajagopala Iyengar Esq M A LL I
6 Mrs B Kameswaramma B A
7 M V Venkataramiah Esq
8 M S Nanjappa Esq
9 G R Rangaswamiah Esq
10 G Janardan Naidu Esq
11 T S Alikhan Esq
12 Haji Mir Amiruddin Khuraishi, Esq
13 B L Maridandiah Esq
14 F C Devaraja Urs Esq

ABSENT

15 P Sitaramiah Esq B A B L
16 U L Ramachandra Rao Esq
17 M K Linganna Esq B A LL B
18 M C Mallappa Esq
19 A Krishna Murty Esq
20 T Narasimha Iyengar Esq, B A B L
21 A N Suryanarayana Rao, Esq
22 N Rajagopala Iyengar Esq B A B L
23 Agaram Rangiah Esq
24 B Narayanaswamy Esq B A B L
25 T Mariappa Esq B A LL B
26 F P Nanjappa Esq
27 Dr A J Ram L M & S
28 Patnam Sreenivasasetty Esq
29 M R C Basappa Esq
30 T Venkataramaniah Esq
31 S A Kareem Esq

=====

482 - (1) Letter dated 17-1-1943, from Mr T Mariappa, Municipal Councillor, and letter dated 17-1-1943 from Mr A Krishna Murthy, Municipal Councillor, requesting leave of absence for the meetings in the current month and

(2) Letter dated 14-1-1943 from Messrs E P Nanjappa and B Narayanaswamy requesting sanction of three months leave together with office note stating that the above Councillors have already been granted leave, etc

Solution - "Sanctioned and Government may be reminded about resolution No 359 dated 22-12-1942

(Sd) B S Raghavendra Rao,
President

516 (1) Letter dated 24-1-1943 from Mr T Narasimha Iyengar, Municipal Councillor requesting leave for the meeting as he is yet in detention

(2) Letter dated 22-1-1943 from Mr A N Suryanarayana Rao

requesting leave or absence for [illegible]
detention.

"Sanctioned vide also Resolution No.[illegible]."

(Sd) B.S.Raghavendra Rao,
President.

"COPY".

B S Raghavendra

SNR). RESIDENT.

CITY MUNICIPAL OFFICE, MYSORE

SUBJECT:- Leave applied for by certain Municipal Councillors

--

OFFICE NOTE

--

The following Municipal Councillors have applied for leave to absent themselves from meetings

1	Mr T Mariappa	Leave for January 1943 monthly meeting (Letter dated 17-1-43
2	" A Krishna Murthi	do (Letter dated 17-1-1943)
3	Messrs E P Nanjappa & B Narayanaswamy	Leave for three months (letter dated 14-1-1943)

Leave for 3 months has already been granted in the resolutions noted below to the above members

Mr T Mariappa Granted 3 months leave in resolution No 430 dated 22-12-1942

Mr A Krishna Murthy Permitted to be absent every month in Res No 249/31-10-42

Messrs E P Nanjappa & B Narayanaswamy Granted leave for 3 months in Res No 380 dated 28-11-1942

Though leave has been granted to these members as explained above, the circumstances under which the present requisitions are made are not known

However, the letters are placed before the Municipal Council

" COPY "

SNR)

PRESIDENT

Appendix F G —1]

SUBJECT

Section Jud

File No 155-42

Serial No 21

Diary No of letter replied to

No L-8619

General and Revenue Secretariat

To The President
Mysore City Municipality
Mysore

the *194*

Sir,

Date of issue 26-2-43

With reference to the Correspondence ending with your letter No MS-490/42 dated the 6th Feby/1943 soliciting orders in regard to the absence, & prayer to detention of certain Municipal Councillors exceeding six months I am directed to state that the absence

Signed by Asst. Secretary

List of enclosures

Codied by

Examined by